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20995	7590	09/08/2005	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP			SKAARUP, JASON M	
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FOURTEENTH FLOOR			PAPER NUMBER	
IRVINE, CA 92614			3714	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/070,266

Applicant(s)

BRYANT ET AL.

Examiner

Jason Skaarup

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2004 and 08 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/22/05 & 8/22/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's responses filed October 12, 2004 and April 8, 2005 have been fully considered by the Examiner. The Examiner has provided a new ground of rejection based on a newly cited reference, Weingardt (U.S. Patent No. 5,042,818), as necessitated by Applicant's amendments to independent claims 1, 12 and 21. The Examiner notes that Weingardt was cited in Applicant's Information Disclosure Statement (IDS) submitted on February 22, 2005. Accordingly, this Action is made **FINAL**.

Information Disclosure Statement

2. The Examiner considered the IDS submitted on February 22, 2005 and August 22, 2005. The initialed PTO-1449 documents are attached herewith. The Examiner could not obtain a copy of the selected pages from the book entitled "Slot Machines A Pictorial History of the First 100 Years" authored by Fey. The selected pages were indicated as cite number 99 in Applicant's IDS submitted February 22, 2005. Although the Examiner has access to the book, the Examiner does not know to which pages Applicant refers. Accordingly, cite number 99 of the initialed PTO-1449 documents is crossed out and was not considered by the Examiner.

Claim Objections

3. Claim 19 is objected to because of the following informalities:

Claim 19 recites the limitation "the control means" in line 2 thereof. The Examiner believes Applicant intended for this limitation to recite "the controller".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 2, 3 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 2, 3 and 5 each recite the limitation "the additional staked credit" therein. There is insufficient antecedent basis for this limitation in claims 2, 3 and 5, respectively.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-10, 12-19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Weingardt (U.S. Patent No. 5,042,818).

Weingardt discloses a poker game machine as recited in claim 1. The disclosed poker game machine comprises:

a display including a plurality of display positions for displaying combinations of symbols (Figures 1 and 2 along with the related description thereof, wherein the video screen of Figure 1, as shown in Figure 2, corresponds to the display);

a controller for controlling operation of the machine, the controller including a processor for processing data and displaying selected data on the display (col. 4, lines 21-28 and col. 17, lines 21-37, wherein the game machine is a video poker machine);
and

a selector operable by a player of the machine for enabling the player to select at least one additional feature which can be added to a base game played on the machine (Figure 5 along with the related description thereof, wherein the selectors, dedicated input buttons labeled "bet 1 credit" and "bet super cards", are operable by the player to select the at least additional feature), such that a first bet configuration provides eligibility for the base game alone (col. 5, lines 36-64 and Figure 7 along with the related description thereof, wherein when the player wagers an initial wager, the player is eligible to play the base game including a five card poker hand) and at least one other bet configuration provides eligibility for the base game enhanced with eligibility for the at least one additional feature (col. 5, lines 36-64 and Figure 7 along with the related description thereof, wherein when the player wagers at least one additional wager, the player is eligible to play the base game including a five card poker hand enhanced with

eligibility for the at least one additional feature, a sixth card, a seventh card or both sixth and seventh cards).

Regarding claim 2, Weingardt discloses that the additional credit staked by the player is a multiple of a base bet wagered by the player (col. 5, lines 36-64, wherein the player inserts five tokens to activate the base game and at least one additional token, e.g., a fixed multiple of $1/5$ or 0.20 of the base bet, is required to activate the additional feature of playing a sixth card and at least one additional token, e.g., a fixed multiple of $1/5$ or 0.20 of the base bet, is required to activate the additional feature of playing a seventh card). Should an operator implementing the game disclosed by Weingardt require five tokens to be required to activate the additional features of playing a sixth and a seventh card, the additional tokens required for the additional features would be a different multiple, e.g., $5/5$ or 1.0, of the base bet than described above.

Regarding claim 3, Weingardt discloses that different or separate multiples of the base bet purchase different or separate additional features (col. 5, lines 36-64, wherein the player inserts five tokens to activate the base game and at least one additional token, e.g., a fixed multiple of $1/5$ or 0.20 of the base bet, is required to activate the additional feature of playing a sixth card and at least one additional token, e.g., a fixed multiple of $1/5$ or 0.20 of the base bet, is required to activate the additional feature of playing a seventh card). Should an operator implementing the game disclosed by Weingardt require five tokens to be required to activate the separate additional features of playing a sixth card and a seventh card, the additional tokens required for the

separate additional features would be separate multiples, e.g., 5/5 or 1.0, of the base bet.

Regarding claim 4, Weingardt discloses that the selector comprises a plurality of selectors operable by the player to select the at least one additional feature before making the base bet (Figure 7 along with the related description thereof, wherein the selectors, dedicated input buttons labeled “bet 1 credit” and “bet super cards” in Figure 5, are operable by the player to select the at least additional feature before making the base bet).

Regarding claim 5, Weingardt discloses that the additional credit staked provides eligibility to a benefit provided by that feature, there being no guarantee that the feature will eventuate merely by having staked the additional credit (Figure 7 along with the related description thereof, wherein the additional credit staked provides eligibility to a benefit provided by that feature, e.g., 4-5-6 of a kind or other award based on at least six cards, but there being no guarantee that the benefit will eventuate merely by having the staked additional credit and playing at least six cards).

Regarding claim 6, Weingardt discloses that the additional feature is triggered independently of the base game (Figure 7 along with the related description thereof, wherein the additional feature is playing at least six cards, which is triggered by the player wagering at least one additional wager independently of the base game).

Regarding claim 7, Weingardt discloses that the selector enables a player to select a range of additional features to enable the player to tailor the game to the

player's requirements (Figure 7 along with the related description thereof, wherein the player may select to play a range of additional features, e.g., six cards or seven cards).

Regarding claim 8, Weingardt discloses that certain of the additional features are no-cost features while other features require the staking of additional credit by the player (col. 5, lines 62-64 and Figure 7 along with the related description thereof, wherein one additional features, e.g., playing a seventh card, is a no-cost feature while another feature, e.g., playing a sixth card, requires the staking of additional credit by the player).

Regarding claim 9, Weingardt discloses that the machine comprises a plurality of games and wherein the selector enables the player to select one of the plurality of games as the base game (Figures 6-9 along with the related descriptions thereof, wherein the selector or input buttons of Figure 5 enables the player to select one of the games of Figures 6-9 as the base game).

Regarding claim 10, Weingardt discloses that the selector includes dedicated buttons on a keypad of the control means (Figure 5 along with the related description thereof, wherein dedicated input buttons labeled "bet 1 credit" and "bet super cards" constitute the selector).

Regarding claim 12, Weingardt discloses a poker game machine that comprises:
a display including a plurality of display positions for displaying combinations of symbols (Figures 1 and 2 along with the related description thereof, wherein the video screen of Figure 1, as shown in Figure 2, corresponds to the display);

a controller for controlling operation of the machine, the controller including a processor for processing data and displaying selected data on the display (col. 4, lines 21-28 and col. 17, lines 21-37, wherein the game machine is a video poker machine); and

a selector operable by a player of the machine for enabling the player to select at least one additional feature which can be added to a base game played on the machine (Figure 5 along with the related description thereof, wherein the selectors, dedicated input buttons labeled "bet 1 credit" and "bet super cards", are operable by the player to select the at least additional feature), such that a first bet configuration provides eligibility for the base game alone (col. 5, lines 36-64 and Figure 7 along with the related description thereof, wherein when the player wagers an initial wager, the player is eligible to play the base game including a five card poker hand) and at least one other bet configuration provides eligibility for the base game enhanced with eligibility for the at least one additional feature (col. 5, lines 36-64 and Figure 7 along with the related description thereof, wherein when the player wagers at least one additional wager, the player is eligible to play the base game including a five card poker hand enhanced with eligibility for the at least one additional feature, a sixth card, a seventh card or both sixth and seventh cards), an additional credit staked by the player in order to be eligible for the at least one additional feature being a fixed amount multiplied by a bet wagered per line or per draw (col. 5, lines 36-64, wherein the player inserts five tokens to activate the base game and at least one additional token, e.g., a fixed multiple of 1/5 or 0.20 of the base bet, is required to activate the additional feature of playing a sixth card and at least

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one additional token, e.g., a fixed multiple of $1/5$ or 0.20 of the base bet, is required to activate the additional feature of playing a seventh card). Should an operator implementing the game disclosed by Weingardt require five tokens to be required to activate the additional features of playing a sixth and a seventh card, the additional tokens required for the additional features would be a different multiple, e.g., $5/5$ or 1.0, of the base bet than described above.

Regarding claim 13, Weingardt discloses the selector comprises a plurality of selectors operable by the player to select the at least one additional feature before making the base bet (Figure 7 along with the related description thereof, wherein the selectors, dedicated input buttons labeled "bet 1 credit" and "bet super cards" in Figure 5, are operable by the player to select the at least additional feature before making the base bet).

Regarding claim 14, Weingardt discloses that the additional credit staked provides eligibility to a benefit provided by that feature, there being no guarantee that the feature will eventuate merely by having staked the additional credit (Figure 7 along with the related description thereof, wherein the additional credit staked provides eligibility to a benefit provided by that feature, e.g., 4-5-6 of a kind or other award based on at least six cards, but there being no guarantee that the benefit will eventuate merely by having the staked additional credit and playing at least six cards).

Regarding claim 15, Weingardt discloses that the additional feature is triggered independently of the base game (Figure 7 along with the related description thereof,

wherein the additional feature is playing at least 6 cards, which is triggered via at least one additional wager independently of the base game).

Regarding claim 16, Weingardt discloses that the selector enables a player to select a range of additional features to enable the player to tailor the game to the player's requirements (Figure 7 along with the related description thereof, wherein the player may select to play a range of additional features, e.g., 6 cards or 7 cards).

Regarding claim 17, Weingardt discloses that certain of the additional features are no-cost features while other features require the staking of additional credit by the player (col. 5, lines 62-64 and Figure 7 along with the related description thereof, wherein one additional features, e.g., playing a seventh card, is a no-cost feature while another feature, e.g., playing a sixth card, requires the staking of additional credit by the player).

Regarding claim 18, Weingardt discloses that the machine comprises a plurality of games and wherein the selector enables the player to select one of the plurality of games as the base game (Figures 6-9 along with the related descriptions thereof, wherein the selector or input buttons of Figure 5 enables the player to select one of the games of Figures 6-9 as the base game).

Regarding claim 19, Weingardt discloses that the selector includes dedicated buttons on a keypad of the control means (Figure 5 along with the related description thereof, wherein dedicated input buttons labeled "bet 1 credit" and "bet super cards" constitute the selector).

Regarding claim 21, Weingardt discloses a video poker machine that comprises:

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a display including a plurality of display positions for displaying combinations of symbols (Figures 1 and 2 along with the related description thereof, wherein the video screen of Figure 1, as shown in Figure 2, corresponds to the display);

a controller for controlling operation of the machine, the controller including a processor for processing data and displaying selected data on the display (col. 4, lines 21-28 and col. 17, lines 21-37, wherein the game machine is a video poker machine); and

a plurality of selectors operable by a player of the machine for enabling the player to select at least one additional feature which can be added to a base game played on the machine (Figure 5 along with the related description thereof, wherein the selectors, dedicated input buttons labeled "bet 1 credit" and "bet super cards", are operable by the player to select the at least additional feature), such that a first selection (input button "bet 1 credit") provides eligibility for the base game alone (col. 5, lines 36-64 and Figure 7 along with the related description thereof, wherein when the player wagers an initial wager, the player is eligible to play the base game including a five card poker hand) and at least one other selection (input button "bet super cards") provides eligibility for the base game enhanced with eligibility for the at least one additional feature (col. 5, lines 36-64 and Figure 7 along with the related description thereof, wherein when the player wagers at least one additional wager, the player is eligible to play the base game including a five card poker hand enhanced with eligibility for the at least one additional feature, a sixth card, a seventh card or both sixth and seventh cards).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 11 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weingardt in view of Dickinson (U.S. Patent No. 5,951,397).

Weingardt discloses a video poker machine having dedicated input buttons labeled "bet 1 credit" and "bet super cards" used as selectors that are operable by the player to select at least additional feature, e.g., playing additional cards in a poker hand. In a related poker game machine, Dickinson teaches a touch screen 40 implemented in a display device 20 and dedicated input buttons 24 for receiving player input while playing the poker game thereof. Dickinson teaches that the touch screen electronics and the game machine electronics are programmed to accept input via the touch screen or the input buttons in order to enhance the versatility of the game machine (col. 4, line 58 to col. 5, line 17). It would have been obvious for one skilled in the art at the time of the invention to incorporate a touch screen as taught by Dickinson into the video poker machine of Weingardt in order to enhance the versatility of the video poker machine of Weingardt as desirably taught by Dickinson in col. 4, line 58 to col. 5, line 17.

Response to Arguments

10. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

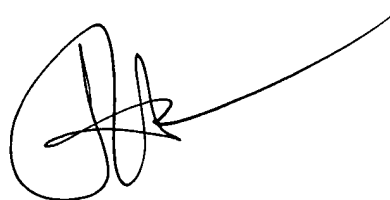
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jason Skaarup whose telephone number is 571-272-4455. The Examiner can normally be reached on Monday-Thursday (10:00-8:00).

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If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Primary, Jessica Harrison can be reached at 571-272-4449. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a horizontal line and a diagonal stroke.

JESSICA HARRISON
PRIMARY EXAMINER